

## § 16.15

## 14 CFR Ch. I (1–1–15 Edition)

(h) *Electronic filing.* (1) The initial complaint may be served electronically upon the respondent only if the respondent has previously agreed with the complainant in writing to participate in electronic filing. Documents may be filed under this Part electronically by sending an email containing (an) attachment(s) of (a) PDF file(s) of the required pleading to the FAA Docket Clerk, and the person designated in paragraph (h)(3) of this section.

(2) The subject line of the email must contain the names of the complainant and respondent, and must contain the FAA docket number (if assigned). The size of each email must be less than 10 MB. Email attachments containing executable files (e.g., .exe and .vbs files) will not be accepted.

(3) The email address at which the parties may file the documents described in this section is *9-AWA-AGC-Part-16@faa.gov*. No acknowledgement or receipt will be provided by the FAA to parties using this method. A party filing electronically as described in this section must provide to the FAA Part 16 Docket Clerk and the opposing party an email address of the person designated by the party to receive pleadings.

(4) By filing a pleading or document electronically as described in this section, a party waives the rights under this part for service by the opposing party and the FAA by methods other than email. If a party subsequently decides to “opt-out” of electronic filing, that party must so notify the FAA Part 16 Docket Clerk and the other party in writing, from which time the FAA and the parties will begin serving the opting-out party in accordance with §§16.13 and 16.15. This subsection only exempts the parties from the filing and service requirements in §16.13(a) (with the exception that “Documents to be filed with a hearing officer shall be filed at the address and in the manner stated in the hearing order.”), the method of filing requirements in §16.13(b), and the number of documents requirements in §16.13(c).

(i) *Internet accessibility of documents filed in the Hearing Docket.* (1) Unless protected from public disclosure, all documents filed in the Hearing Docket

are accessible through the Federal Docket Management System (FDMS): <http://www.regulations.gov>. To access a particular case file, use the FDMS number assigned to the case.

(2) Determinations issued by the Director and Associate Administrator in Part 16 cases, indexes of decisions, contact information for the FAA Hearing Docket, the rules of practice, and other information are available on the FAA Office of Airports’ Web site at: <http://part16.airports.faa.gov/index.cfm>.

[Doc. No. 27783, 61 FR 54004, October 16, 1996, as amended at Amdt. 16–1, 78 FR 56142, Sept. 12, 2013]

### § 16.15 Service of documents on the parties and the agency.

Except as otherwise provided in this part, documents shall be served as follows:

(a) *Whom must be served.* Copies of all documents filed with the FAA Part 16 Docket Clerk shall be served by the persons filing them on all parties to the proceeding. A certificate of service shall accompany all documents when they are tendered for filing and shall certify concurrent service on the FAA and all parties. Certificates of service shall be in substantially the following form:

I hereby certify that I have this day served the foregoing [name of document] on the following persons at the following addresses, facsimile numbers (if also served by facsimile), or email address (if served electronically in accordance with §16.13(h)), by [specify method of service]:

[list persons, addresses, facsimile numbers, email addresses (as applicable)]

Dated this \_\_\_ day of \_\_, 20\_\_.

[signature], for [party]

(b) *Method of service.* Except as otherwise agreed by the parties and, if applicable, the hearing officer, the method of service is the same as set forth in §16.13(b) for filing documents.

(c) *Where service shall be made.* Service shall be made to the persons identified in accordance with §16.13(f). If no such person has been designated, service shall be made on the party.

(d) *Presumption of service.* There shall be a presumption of lawful service—

(1) When acknowledgment of receipt is by a person who customarily or in

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the ordinary course of business receives mail at the address of the party or of the person designated under § 16.13(f);

(2) When a properly addressed envelope, sent to the most current address submitted under § 16.13(f), has been returned as undeliverable, unclaimed, or refused; or

(3) When the party serving the document electronically has a confirmation statement demonstrating that the email was properly sent to a party correctly addressed.

(e) *Date of service.* The date of service shall be determined in the same manner as the filing date under § 16.13(b).

[Doc. No. 27783, 61 FR 54004, October 16, 1996, as amended at Amdt. 16-1, 78 FR 56143, Sept. 12, 2013]

### § 16.17 Computation of time.

This section applies to any period of time prescribed or allowed by this part, by notice or order of the hearing officer, or by an applicable statute.

(a) The date of an act, event, or default, after which a designated time period begins to run, is not included in a computation of time under this part.

(b) The last day of a time period is included in a computation of time unless it is a Saturday, Sunday, or legal holiday for the FAA, in which case, the time period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.

(c) Whenever a party has the right or is required to do some act within a prescribed period after service of a document upon the party, and the document is served on the party by first class mail or certified mail, 5 days shall be added to the prescribed period.

[Doc. No. 27783, 61 FR 54004, October 16, 1996, as amended at Amdt. 16-1, 78 FR 56143, Sept. 12, 2013]

### § 16.19 Motions.

(a) *General.* An application for an order or ruling not otherwise specifically provided for in this part shall be by motion. Unless otherwise ordered by the agency, the filing of a motion will not stay the date that any action is permitted or required by this part.

(b) *Form and contents.* Unless made during a hearing, motions shall be made in writing, shall state with par-

ticularity the relief sought and the grounds for the relief sought, and shall be accompanied by affidavits or other evidence relied upon. Motions introduced during hearings may be made orally on the record, unless the hearing officer directs otherwise.

(c) *Answers to motions.* Except as otherwise provided in this part, or except when a motion is made during a hearing, any party may file an answer in support of or in opposition to a motion, accompanied by affidavits or other evidence relied upon, provided that the answer to the motion is filed within 10 days after the motion has been served upon the person answering, or any other period set by the hearing officer. Where a motion is made during a hearing, the answer and the ruling thereon may be made at the hearing, or orally or in writing within the time set by the hearing officer.

(d) *Deferred actions on motions.* A ruling on a motion made before the time set for the issuance of the Director's Determination may be deferred to and included with the Director's Determination.

(e) *Extension by motion.* A party shall file a written motion for an extension of time not later than 3 business days before the document is due unless good cause for the late filing is shown. A party filing a motion for extension should attempt to obtain the concurrence of the opposing party. A party filing a written motion for an extension of time shall file the motion as required under § 16.13, and serve a copy of the motion on all parties and the docket clerk as required under § 16.15.

[Doc. No. 27783, 61 FR 54004, October 16, 1996, as amended at Amdt. 16-1, 78 FR 56143, Sept. 12, 2013]

## Subpart C—Special Rules Applicable to Complaints

### § 16.21 Pre-complaint resolution.

(a) Except for those persons filing under 49 CFR 26.105(c), prior to filing a complaint under this part, a person directly and substantially affected by the alleged noncompliance shall initiate and engage in good faith efforts to resolve the disputed matter informally